

CITY OF BURLINGAME



EMPLOYEE MANUAL

Adopted: December 6, 2004
Last Updated: December 6, 2004

City of Burlingame Employee Manual

Employee Acknowledgement

I, _____, hereby acknowledge that I have received a copy of the revised and updated "Employee Manual of the City of Burlingame," as amended.

I further acknowledge that I have read the Employee Manual and that this signed Acknowledgment will be placed in my Personnel File.

I further acknowledge that this manual does not constitute a contract between the City and me.

I further acknowledge that I am an "at-will" employee and may be dismissed from the service of the City by the City Council at any time.

Signature

Date

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SECTION 1 – GENERAL PROVISIONS

1. PURPOSE

The general purpose of this personnel policy is to establish a system of personnel administration that meets the social, economic, and program needs of the people of the City of Burlingame. This system shall provide means to recruit, select, develop and maintain an effective and responsive work force, and shall include policies and procedures for employee hiring and advancement, training and career development, job classification, salary administration, fringe benefits, leaves, discipline, discharge and other related activities.

Affirmative action as developed at the national level shall be the City of Burlingame's positive means of implementing equal opportunity for all employees without regard to race, color, religion, national origin, sex, age, or handicapped condition.

It is important that you read and understand these policies as they govern many of the terms and conditions of your employment. From time to time, circumstances may require that the City Council amend, suspend or revoke policies described in this manual, which it may do at its discretion.

2. ADOPTION AND AMENDMENT OF POLICY

The City Administrator shall present to the City Council personnel rules to be adopted. Amendments and revisions may be proposed by the City Administrator, Mayor, or Council Member and will be effective upon approval of the City Council. These rules shall govern the operation of the City of Burlingame personnel system.

3. IMPLEMENTATION OF POLICIES

- A. Delegation of Authority: Unless otherwise stated in these rules, upon approval by the City Administrator, authority granted to the Department Head by these rules may be delegated.
- B. Availability of Funds: The granting of any compensation in these rules is contingent upon the availability of funds, as determined by the Department Head and City Administrator.
- C. Conflict with Federal or State Requirements: If any policy described in this manual conflicts with any applicable state or federal law, regulation or rule, the conflicting policy shall be disregarded only to the extent necessary to avoid a conflict.

- D. Correction of Errors: The City Administrator may correct a manifest error or clear an inequity affecting an employee or an applicant.
- E. If any section, subsection, sentence, clause, phrase or portion of this Employee Manual adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction shall not affect the validity of the remaining portions thereof.
- F. Department Heads may create more restrictive regulations for their departments if so desired. The regulations must be approved by the City Administrator.

4. APPLICABILITY

These rules are applicable to all positions in the City unless a specific chapter or section is excluded from applicability for specified positions.

5. CLASSIFIED AND UNCLASSIFIED EMPLOYEES

All positions in the City are divided into classified or unclassified service positions. Unclassified service positions include all elected officials and members of boards, committees, and commissions; Volunteer personnel and personnel appointed to serve without pay on committees; Temporary and Seasonal positions; and all employees appointed by the City Council to serve a specific term or at the City's pleasure. The classified service shall include all other positions in the City's service.

All positions with the City are considered at-will positions and are subject to dismissal from the service of the City at any time by a majority vote of the City Council.

6. EXEMPT AND NON-EXEMPT EMPLOYEES

All paid positions with the City are non-exempt except the following listed positions:

- A. City Administrator
- B. Mayor
- C. Council Member

7. PART TIME EMPLOYEES

Part time employees are those employees who are regularly assigned less than forty (40) hours per week.

8. DELEGATION OF AUTHORITY

In the event that the City Administrator is not able to perform his/her duties the following positions will assume the City Administrator's authority in the order listed:

- A. Mayor
- B. President of the City Council

SECTION 2 – EQUAL EMPLOYMENT POLICY

1. GENERAL

The City of Burlingame provides equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, sex, national origin, age, disability, status as a Vietnam era or special disabled veteran or status in any group protected by local, state or federal law. This policy applies to all terms and conditions of employment, including but not limited to, hiring, placement, promotion, dismissal, layoff, recall transfer, leaves of absence, compensation and training. The City reasonably accommodates disabled employees as required by the ADA. If you believe you require reasonable accommodation, you should contact the City Administrator.

Under this policy, the City of Burlingame strictly prohibits any form of unlawful employee harassment based on race, color, religion, sex, national origin, age, disability, status as a Vietnam era or special disabled veteran, or status in any group protected by local, state or federal law. Any form of unlawful discrimination or harassment will not be tolerated. If you believe you have been subjected to any conduct prohibited by this policy, you should report that conduct to the City Administrator.

2. ANTI-HARASSMENT POLICY

With respect to sexual harassment, the City prohibits the following:

- A. Unwelcome sexual advances, requests for sexual favors and all other verbal or physical conduct of a sexual or other offensive nature, especially where:
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of employment;
 - 2. Submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment; or
 - 3. Such conduct has the purpose or effect of creating an intimidating, hostile or offensive work environment.
- B. Offensive comments, jokes, innuendoes, and other sexually oriented statements. Examples of the types of conduct expressly prohibited by this policy include, but are not limited to, the following:

1. Touching, such as rubbing or massaging someone's neck or shoulders, stroking someone's hair, or brushing against another's body;
2. Sexually suggestive touching;
3. Lewd, off-color, sexually oriented comments or jokes;
4. Foul or obscene language;
5. Questions or comments about one's sex life or experience;
6. Repeated request for dates.

If you experience any unlawful job related harassment based on your sex, race, national origin, disability or other unlawful factor, or believe that you have been treated in an unlawful, discriminatory manner, promptly report the incident to your department head or the City Administrator. Your complaint will be kept confidential to the maximum extent practical.

If the City determines that an employee has harassed another individual, appropriate disciplinary action will be taken against the offending employee, up to and including dismissal of employment.

The City prohibits any form of retaliation against any employee for filing a bona fide complaint under this policy or for assisting in a complaint investigation. However, if after investigating any complaint of harassment or unlawful discrimination, the City determines that the complaint is not bona fide and was not made in good faith or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the individual who filed the complaint or gave false information.

3. JOB ANNOUNCEMENT POLICY

All job announcements shall include appropriate identification that the City of Burlingame is an Equal Employment Opportunity Employer and supports Affirmative Action (EEO/AA). All job applicants shall be afforded these considerations.

SECTION 3 – WORK SCHEDULES AND COMPENSATION

1. POLICY

The City of Burlingame is required to comply with the provisions of the federal law known as the Fair Labor Standards Act. The City Council may designate qualifying employees of the City as exempt from the provisions of the act as provided by law. Those employees of the City as exempt shall not be eligible to receive compensation for overtime worked as provided in this policy.

2. RECORDING HOURS WORKED

Certain employees of the City will be required to keep accurate record of their hours worked. This must be done on approved forms provided by the City. No employee other than a Department Head may record or change hours for any other employee.

3. CLASSIFICATION OF EMPLOYEES AND OTHER WORKERS

For purposes of salary administration and eligibility for overtime payments, the City classifies its' employees and other workers as follows:

- A. Full time regular employees. Employees hired to work the City's normal, full time forty (40) hour workweek on a regular basis. Such employees may be either "exempt" or "nonexempt" as defined below.
- B. Part time regular employees. Employees hired to work between one (1) hour and thirty-nine (39) hours per week on a regular basis. Such employees may be either "exempt" or "nonexempt" as defined below.
- C. Elected officials.
- D. Volunteers. Individuals who perform services without any expectation of compensation.
- E. Nonexempt employees. Employees who are required to be paid overtime at the rate of time and one half their regular rate of pay for all hours worked beyond forty (40) hours in a work week, in accordance with applicable federal wage and hour laws.
- F. Exempt employees. Employees who are not required to be paid overtime, in accordance with applicable federal wage regulations. Executives, professional employees and certain employees in administrative positions are typically exempt.

- G. Temporary employees. Employees who are hired to work for a set period of time. The time frame may be adjusted based on available funds and/or work tasks.
- H. Seasonal employees. Employees who are hired to work during a set time of the year on an annual basis to complete specific tasks. The time frame may be adjusted based on available funds and/or work tasks.

You will be informed of your initial status as an exempt or nonexempt employee when you are hired.

If you change positions, you will be informed of any change to your exemption status.

For purposes of calculating overtime, the workweek begins on Sunday at 12:00 am and ends the following Saturday at 11:59 pm.

To ensure that accurate records are kept of the hours that you actually work and of the accrued leave time you have taken, and to ensure that you are paid in a timely manner, you will be required to record your time worked and absences on the City's official time record form. Falsifying this time record violates the City's policies, and is grounds for disciplinary action, up to and including dismissal.

4. CALL-OUT POLICY

The call-out procedure is established to provide for emergency situations where it is determined that additional assistance is required resulting in an employee being called into duty outside of his/her normal working hours.

If an employee is called out to work under the circumstances previously mentioned, the employee will automatically receive credit for a minimum one hour worked regardless of the duration of the call out. Once the employee works more than one hour, the time credited at one and one half (1.5) times the regular rate for any time over forty (40) hours worked in a week. This provision does not apply to those employees exempt under the provisions of the Fair Labor Standard Act.

5. ON-CALL POLICY

In order to be able to respond quickly to a call for service outside of the typical work hours, the City of Burlingame will pay employees to be placed "On-Call". This will allow for the timely response to requests outside the normal work hours. Employees performing "On-call" time will be paid \$1.00

per hour of "on-call" time. Employees performing "On-Call" time during holidays will be paid \$2.00 per hour for the entire day (24 hours). If the employee is called into work, the Call-Out Policy will take effect. No "On-Call" pay will be assessed during regular or overtime hours worked.

The call-out procedure is established to provide for emergency situations where it is determined that additional assistance is required resulting in an employee being called into duty outside of his/her normal working hours.

During this "On-Call" time the employee shall respond to a request by phone within five (5) minutes. The employee shall be on-site to a call within thirty (30) minutes. If an employee does not meet these criteria, he/she may be required to forfeit the "On-Call" pay for that period.

Employees placed "On-Call" shall remain in the immediate area and be in condition to report for duty within the thirty (30) minutes as stated above. If the employee is not able to respond to a call, he/she may be disciplined as prescribed in this manual.

6. OVERTIME COMPENSATION

Overtime work may sometimes be necessary to meet emergency situations, seasonal, or peak workload requirements, and Department Heads are responsible for the advance planning required to minimize the need for overtime. All non-exempt employees shall be compensated at one and one half (1.5) hours per hour of overtime worked.

Overtime compensation will only be paid for hours actually worked in excess of forty (40) hours in a work week, excluding call-out time. Overtime shall be calculated to the nearest one quarter (1/4) hour of overtime worked.

7. COMPENSATORY TIME

The Department Head may elect to substitute time off for overtime pay at the rate of one and one half (1.5) hours for each hour of employment for which overtime pay would normally be required. Non-exempt employees may accrue a maximum of thirty (30) hours of compensatory time (twenty (20) hours of overtime worked).

SECTION 4 – ALCOHOL AND DRUG POLICY

1. PURPOSE

City of Burlingame, referred to hereafter as Employer, believes that a drug-free environment is important to the health and safety of their employees and customers. In order to achieve that goal, the following policy and procedures have been adopted in regard to drug and alcohol abuse and testing for drug and alcohol abuse in employees, and applicants.

In the case of employees who may be subject to call-back on holidays, week-ends and after duty hours, it is possible that use of alcohol, prescription or over-the-counter medications may cause the employee to function in a manner which could be unsafe or harmful to himself/herself or others.

Employees who are officially "on-call" during hours which would normally not be working hours are to abstain from drugs, that may cause the employee to function in a manner which could be unsafe or harmful to himself/herself or others, and alcohol during that time.

Employees who are not assigned official "on call" status should notify the supervisor upon emergency call-back if they do not believe they are able to perform the duties necessary because of use of medications or alcohol. Employees who are not "on call" will not be disciplined or be subject to retaliation for such disclosure.

2. COVERED POSITIONS

All employees of City of Burlingame are subject to the provisions of this policy.

3. DEFINITIONS

A. An accident is any event, which results in:

1. Death or personal injury requiring inpatient hospitalization, or
2. Damage to employer-owned vehicle, equipment or machine in excess of \$1,000, where the employee may be at fault, or where employee fault cannot be completely ruled out, or
3. An event, which may result in a workman's compensation claim, or

4. An event, which the employer believes to be significant, even if it does not meet any of the above criteria.
- B. Breath Test: A test for alcohol, using breath, conducted using a HHTSA certified evidentiary breath testing device (EBT), and performed by a Breath Alcohol Technician who has been trained.
- C. Drug Test: A chemical analysis utilizing urine, breath, and/or hair samples, to determine the presence of prohibited drugs listed below.
- D. Fail a drug or alcohol test: Confirmation of a test result which shows positive evidence of the presence of alcohol or a prohibited drug in the employee's system, for which there is no legal or legitimate reason.
- E. Pass a drug or alcohol test: Initial or confirmation testing does not show evidence of alcohol or a prohibited drug in an employee's system.
- F. Prohibited drug: Currently the following drugs are prohibited while an employee is engaged in city business, while using city equipment or acting as an employee of the city: Marijuana, Cocaine, Amphetamines, Methamphetamines, PCP (Angel dust), Opiates and Alcohol.

4. DRUG TEST REQUIREMENTS

- A. Upon being notified that a drug test is required, an employee will report as soon as possible to the drug testing collection personnel, and provide, at the employer's direction:
 1. A sample of his/her urine and/or
 2. A sample of his/her hair and/or
 3. Submit to a breath test using an Evidential Breath Testing Device to detect alcohol.

All testing will be performed in accordance with the guidelines set forth in this policy. A photo ID is required for identification purposes.

- B. Employees have the right to see photo identification from collection personnel before testing.
- C. Collectors are persons who have successfully completed training using materials supplied by the Department of Transportation, or licensed

medical professionals or technicians who have received training or instruction.

D. Employees are subject to drug testing in the following circumstances.

1. Pre-employment: All employees will be pre-employment drug tested and receive a negative test result before beginning work.
2. Post-accident: Within two (2) hours after an accident, (as defined in this policy) any employee whose performance may have been a contributing factor in the accident, or whose performance cannot be completely discounted as a contributing factor to the accident shall be tested for drugs and alcohol.

The employer may decide not to test because an employee's performance could not have contributed to the accident, or because the time between performance and accident would make a test useless in determining whether performance was affected by drug or alcohol use.

If an employee who is subject to post-accident testing is conscious, able provide an adequate breath sample and urinate normally (in the opinion of a medical professional), and refuses to be tested, that employee shall be considered to have tested positive, and treated as any other employee who tests positive.

In the case of an unconscious employee, or one who is unable to consent to the procedure, testing will not be done.

3. Reasonable cause: The Employer will drug and/or alcohol test an employee when there is reasonable cause to believe that employee is using a prohibited drug or alcohol while on duty. There must be reasonable and articulable reasons for testing, based on specific physical, behavioral or performance indicators of probable drug or alcohol use. Examples of this are evidence of repeated errors on the job, rule violations, or unsatisfactory time and attendance patterns, coupled with a specific contemporaneous event that indicates probable drug or alcohol use.

At least two supervisors, one of whom is trained in detection of symptoms of possible drug and alcohol use, will agree on the decision to test. Once the supervisors are in agreement, a Reasonable Suspicion Observation Form will be filled out and taken to the City Administrator for his/her signature. Once the form has been completed the employee will be required to meet with the supervisor and City Administrator. At that time the

employee will be placed on paid administrative leave pending the completion of the drug and/or alcohol test and the results provided to the City. If the results are negative, the employee shall be informed of the findings and return to work. If the any of the results of the test(s) are positive Item 6 in this section will prevail.

4. Random: Most employees are part of a random pool for the purpose of random drug testing. Employees will be chosen for testing at the beginning of each calendar quarter, and will be tested for substance abuse sometime during the calendar quarter. Employees will be tested at a random rate equal to 15% of the employees in the pool per year. Selection will be done using a computer based random number generation program, and the numbers selected will be matched with numbers assigned to employees. Employees chosen will be notified no more than one-half (1/2) hour in advance that they will be required to provide a urine sample for testing.
5. Sweep: Sweep tests may be conducted at any time requested by management. When a sweep test is done, all employees of City of Burlingame will be required to provide a sample for testing.
6. Any employee who refuses to take a drug or alcohol test may be terminated.

E. Inability to provide a urine sample.

If the employee is unable to provide a urine specimen, the collection personnel will:

1. Direct the employee to drink fluids, and after a reasonable time, attempt again to provide a sample, or may, at the discretion of the employer,
2. Offer the employee the opportunity to provide a sample of his/her hair for testing instead.

F. Retesting of samples.

If the Medical Review Officer (MRO) determines that there is no legitimate medical reason for a confirmed positive test result, other than unauthorized use of a prohibited drug, the original sample must be retested if the employee, makes a written request for retesting within seventy-two (72) hours of receipt of the final test result from the MRO.

The Employer may require the employee to pay in advance for the cost of shipping (if any) and reanalysis of the sample, but the employee will be reimbursed if the retest is negative.

Retesting will be done utilizing the frozen portion of the original or split sample provided by the employee which the lab has retained. Since some analytes may deteriorate during storage, detected levels of the drug or alcohol below the detection limits established in this policy, but equal to or greater than, the established sensitivity of the assay, must, as technically appropriate, be reported and considered corroborative of the original positive result.

G. Refusal to provide a specimen.

Any employee who fails to report for collection or refuses to provide a specimen after being informed that a test is required will be considered to have failed a drug or alcohol test, unless the employee has a legitimate, verifiable reason for failure to report or test.

5. ANALYSIS PROCEDURES

A. Security and chain of custody.

1. The testing laboratory shall be secure at all times, with sufficient security measures in place to control access and ensure that no unauthorized personnel handle specimens or gain access to laboratory processes or areas where records are stored.
2. Lab shall use chain of custody procedures to maintain control and accountability of specimens from receipt through completion of testing, reporting of results, during storage, and continuing until final disposition of specimens.

B. Reporting results.

1. The lab shall report test results to the MRO within an average of five (5) working days after receipt of the specimen by the lab. Before any result is reported, it shall be reviewed and the test certified as an accurate report by a responsible individual. The report shall identify:
 - a. Drugs tested for
 - b. Positive or negative result

- c. Specimen number assigned by employer
 - d. Drug testing laboratory specimen identification number
- 2. The lab shall report as negative all specimens which are negative on the initial or confirmatory test. Only specimens confirmed positive shall be reported as positive for a specific drug or alcohol.
 - 3. The MRO may request from the lab, and the lab shall provide, quantitation of test results. The MRO shall report whether a test is positive or negative, and may report the drug(s) for which there was a positive test, but shall not disclose the quantitation results to the employer.

The MRO may reveal the quantitation of a positive test to the employer, employee or applicant or decision maker in a lawsuit, grievance or other proceeding initiated by or on behalf of the employee or applicant, and arising from a verified positive drug or alcohol test.

- 4. The lab may transmit results to the MRO by electronic means in a manner designed to ensure confidentiality. Results may not be provided verbally by telephone. The laboratory and employer must ensure the security of the data transmission and limit access to any data transmission, storage and retrieval system.
- 5. The lab shall make available copies of all analytical results for employer drug testing programs when requested.
- 6. Unless otherwise instructed by the employer in writing, all records pertaining to a given urine specimen shall be retained for a minimum of two (2) years.

C. Personnel to Testify at Proceedings.

The lab shall have qualified personnel available to testify in an administrative or disciplinary proceeding against an employee when that proceeding is based on positive urinalysis results reported by the lab.

6. FAILURE TO PASS TEST

If any test returns a positive finding the following procedures will be used:

- A. The employee will be placed on paid administrative leave pending an investigation and possible disciplinary action(s).

- B. The employee's supervisor will conduct an internal investigation.
- 1.) The supervisor, or his/her designee, will interview the employee and obtain reasons for the positive result. The relevant information will be recorded in writing by the supervisor. The interview shall be tape recorded.
 - 2.) The supervisor will forward a written report to the City Administrator in the following format:
 - a.) Investigation – This will include all interviews and attachments of any relevant documents.
 - b.) Work History – record any past disciplinary actions, work conduct, and possibly past employee evaluations.
 - c.) Findings – a statement from the supervisor of whether there is an infraction or not.
 - d.) Recommendation – if the supervisor finds a policy infraction, he/she will make a written recommendation of discipline to the City Administrator.
 - 3.) The City Administrator will forward a copy of the entire report and investigation to the employee with a written notification of a pre-disciplinary hearing.
 - 4.) The employee can waive the hearing and accept the discipline, or attend the hearing and present any other information he/she feels the City Administrator needs to have for making a disciplinary decision.
 - 5.) The City Administrator can make any of the final decisions as follows:
 - a.) Order further investigation based on new information presented by the employee.
 - b.) Accept the supervisor's recommendation and implement the discipline.
 - c.) Amend the supervisor's recommendation and implement the discipline.

- 6.) If the recommendation of the supervisor and City Administrator is termination, the employee will be placed on paid administrative leave pending action by the City Council.

If the employee is retained under discipline other than termination, then the following steps need to be taken to return the employee back to service.

- a.) Receive a clearance from a substance abuse professional approved by the City.
- b.) Employee must be given a return to service drug test.
- c.) Employee may be randomly tested over the next twelve (12) months.

7. SUMMARY

The policy above has been adopted to further the objective of providing a safe and productive environment for employees, and effective, safe service to customers.

Any employee who is arrested for driving under the influence of alcohol or drugs, or for selling drugs shall report such arrest to their supervisor within ten (10) working days.

Suspension or revocation of a driver's license shall be reported to the employee's supervisor within ten (10) working days. Disciplinary action will not necessarily be taken because of an arrest, but because of the sensitive nature of the work performed by city personnel, it is necessary that city be aware of situations which may involve the safety of clients, fellow employees and the general public.

No employee with a suspended or revoked driver's license shall operate city owned vehicles or equipment, and no supervisor or foreman shall knowingly allow an employee with a suspended or revoked driver's license to operate city owned vehicles or equipment.

Any employee who uses, distributes or possesses illegal substances will be subject to dismissal.

Use, sale or distribution of prohibited substances on job sites or city property will be a basis for discharge of the employee for misconduct due to violation of city policy.

Refusal to take a drug or alcohol test in accordance with the terms of this policy at any time during employment may result in dismissal.

Any employee covered by this policy who fails a drug or alcohol test may be dismissed.

SECTION 5 – CODE OF ETHICS

1. PURPOSE AND APPLICATION

- A. The City Council determines that the public trust and the enhancement of the integrity of governmental operations may only be secured by the exhibition of the highest standards of integrity and responsibility by those elected and appointed public officers and employees who undertake service to the citizens of the city. In order to secure such result, this code of ethics is adopted to prompt the independence and impartiality of public officers and employees, and impose standards of accountability upon those who violate the public trust. It is the expectation of the City Council that the officers and employees of the City will aspire beyond the minimum standards of this code of ethics to inspire the greatest measure of public confidence in the operation of Burlingame municipal government, thereby establishing a tradition of honest, devoted and effective service to the community.
- B. The minimum standards of conduct set forth in this code of ethics shall be in addition to the requirements otherwise applicable to public officials by the laws of the United States, state of Kansas, or otherwise contained in the charter and ordinances of the City. The more stringent applicable standard of conduct, federal, state or City shall prevail in the event of any conflict among such standards.

2. DEFINITIONS

As used in this section, the terms set forth shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- A. "Business" means any occupation, trade, profession, organization, company, firm, enterprise, corporation, partnership or proprietorship, private or public, including governmental entities and organizations.
- B. "City" means the City of Burlingame, Kansas.
- C. "City Council" refers to all council members and the mayor of the governing body of the City.
- D. "Confidential information" means any information which is not available to the general public and which is obtained by reason of an officer's or employee's position and shall include, but not be limited to discussions held in executive session, personnel files, negotiations held with third parties which may be the subject of executive sessions pursuant to Kansas statute, and any other information which is not subject to

disclosure pursuant to the Kansas Open Meetings Act and/or the Kansas Open Records Act.

- E. "Contract" includes any arrangement or agreement pursuant to which any material, service or other thing of value is to be furnished to the city for a valuable consideration to be paid by the city, (except the provision of personal services within the scope of employment with the city) or sold or transferred by the city.
- F. "Immediate family" means a spouse, a child by birth or adoption, stepchild, dependent, parent, grandparent, grandchild, sibling or the spouse of any member of the immediate family, set out above.
- G. "Officers or employees" means all officers, including council members, each municipal judge, the city administrator, the city attorney and members of city boards, and employees of the city, whether elected or appointed, paid or unpaid, whether certified, full-time, part-time, seasonal or temporary.
- H. "Personal interest" means any private interest in the matter, other than financial interest, which could substantially interfere with or influence the conduct of public duties.
- I. "Substantial interest" means any of the following:
 - 1. If an individual or an individual's spouse, either individually or collectively, has owned within the preceding twelve (12) months a legal or equitable interest exceeding five thousand dollars (\$5,000.00) or five percent of any business, whichever is less, the individual has a substantial interest in that business.
 - 2. If an individual or an individual's spouse, either individually or collectively, has received during the preceding calendar year compensation which is or will be required to be included as taxable income on federal income tax returns of the individual and spouse in an aggregate amount of two thousand dollars (\$2,000.00) from any business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.
 - 3. If an individual or an individual's spouse, either individually or collectively, has received directly or indirectly in the preceding twelve (12) months, gifts or honoraria having an aggregate value of five hundred dollars (\$500.00) or more from any person, the individual has a substantial interest in that person. If a gift is received for which the value is unknown, the individual shall be

deemed to have a substantial interest in the donor. A substantial interest does not exist under this subsection by reason of: (a) A gift or bequest received as a result of the death of the donor; (b) a gift from a spouse, parent, grandparent, sibling, aunt or uncle; or (c) acting as a trustee of a trust for the benefit of another.

4. If an individual or an individual's spouse holds the position of officer, director, associate, partner or proprietor of any business, the individual has a substantial interest in that business, irrespective of the amount of compensation received by the individual or individual's spouse.
5. If an individual or an individual's spouse receives compensation which is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, the individual has a substantial interest in any client or customer who pays fees or commissions to the business or combination of businesses from which fees or commissions the individual or the individual's spouse, either individually or collectively, received an aggregate of two thousand dollars (\$2,000.00) or more in the preceding calendar year.

As used in this subsection, "client or customer" means a business or combination of businesses.

- J. "Transaction" means the offer, sale, purchase or furnishing of any real or personal property or services by or to any person or entity, directly or indirectly, for the use and benefit of the city or to an officer or employee, or his or her immediate family as a result of the office or employment of such officer or employee with the city.

3. PERSONS COVERED

All city officers and employees shall be bound by this section.

4. CONFLICT OF INTEREST PROHIBITED

- A. No local governmental officer or employee shall, in the capacity of such an officer or employee, make or participate in the making of a contract with any person or business by which the officer or employee is employed or in whose business the officer or employee has a substantial interest.
- B. No person or business shall enter into any contract where any local governmental officer or employee, acting in that capacity, is a signatory

to or a participant in the making of the contract and is employed by or has a substantial interest in the person or business.

- C. If a council member or member of any board or commission of the city, or employee, or members of their immediate family has any substantial interest or personal interest, in the outcome of any matter coming before an agency of the city of which he or she is a member, such officer shall disclose on the record of the agency the existence of such interest, and thereafter shall not vote on the matter, or participate in any proceedings in behalf of the city concerning the matter, and shall not communicate about the matter with any person who will vote or participate in the action to be taken therein.
- D. A local governmental officer or employee does not make or participate in the making of a contract if the officer or employee abstains from any action in regard to the contract.
- E. This section shall not apply to the following:
 - 1. Contracts let after competitive bidding has been advertised for by published notice; and
 - 2. Contracts for property or services for which the price or rate is fixed by law.
- F. Any local governmental officer or employee who is convicted of violating this section shall forfeit the office or employment.
- G. Nothing herein shall be construed to prohibit any officer or employee from taking any action which is required by law.

5. JUDICIAL INVOLVEMENT

No officer or employee shall attempt to influence the municipal judge on any particular pending hearing or trial, nor shall they have discussions with the municipal judge regarding any particular pending hearing or trial unless they appear on record as a material witness with direct knowledge regarding said case.

No officer or employee shall attempt to influence the city attorney in his prosecutorial functions as required in municipal court on any pending hearing or trial nor shall they have discussions with the city attorney on any pending hearing or trial, unless they have direct relevant knowledge regarding said case.

6. APPEARANCES OF IMPROPRIETY

Officers and employees shall at all times be sensitive to and exercise prudent restraint in avoiding even the appearance of impropriety, even though the underlying conduct does not in fact violate this code of ethics, or other applicable city ordinance, or state or federal law.

- A. Officers, including members of the city council, boards and commissions, who will be, or are, engaged in quasi-judicial decision-making activities should avoid all contact or discussion outside the hearing process with any of the parties having an interest in the decision.
- B. Officers and employees shall avoid participating in travel, lodging, and entertainment activities with persons who have been or who are employees, officers or agents of entities which entered into contracts with the city, or are seeking the city's patronage, even though no actual benefits are paid or provided to the officer or employee.
- C. Officers and employees should reasonably limit the payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at duly authorized conventions, seminars and programs at which the officer or employee is scheduled to attend or participate. All means of travel and accommodations shall be at the lowest reasonable and appropriate class or rate available under the circumstances. If equivalent local or in-state programs are available, such programs shall be utilized. The expenditure of public money for alcoholic beverages shall be prohibited.
- D. Officers and employees should otherwise refrain from any activities which, if disclosed to the public, would tend to compromise trust in the integrity, honesty and efficiency of governmental operations.

7. CONFIDENTIAL INFORMATION

No officer or employee shall, without prior formal authorization of the public body having jurisdiction over said confidential information, disclose the same to any other person or entity.

Whether or not it shall involve disclosure, no official or employee shall use or permit the use of any confidential information to advance the financial or personal interest of himself, herself or any other person.

8. APPEARANCES BEFORE CITY BOARDS AND COUNCILS

No officer or employee shall represent or appear in behalf of any private interest, either personally or through a business associate or partner, in any

official action, proceeding, hearing, investigation or deliberation of the city, nor shall such officer or employee, for any financial or personal gain use or attempt to use his or her position, directly or indirectly, to influence any other officer or employee in the performance of his or her official duties. Nothing herein shall be construed to preclude an officer or employee from appearing in behalf of an employee of the city in a proceeding under the city personnel policies or where specifically permitted by ordinance of the city.

9. USE OF CITY PROPERTY AND EMPLOYEE SERVICES

No officer or employee shall use or permit the use of city-owned or leased facilities, city equipment, material or city personnel or city contractors in any manner and at any time while such personnel or contractors are being compensated by the city or at any discount rates not generally available to the public, except while conducting authorized, official business of the city or where such resources are available to the general public, or where such use is specifically authorized by administrative directive.

10. CONDUCT FOLLOWING TERMINATION OF CITY EMPLOYMENT OR CONCLUSION OF TERM OF OFFICE

No officer or employee shall, within six months following termination of his or her office or employment, obtain employment in which he or she will take direct advantage, unavailable to others, of matters with which he or she was directly involved during the term of his or her office or employment. These matters include rules, other than rules of general application, which he or she helped to formulate, and applications, claims or contested cases in the consideration of which he or she substantially participated.

11. RECEIPT OF GIFTS OR FAVORS

A. No officer or employee shall accept from any source any gifts or thing or things, services, loan or any other benefit not generally available to the public, from any person who, or entity which, to his or her knowledge, is interested directly or indirectly, in any manner whatsoever, in a transaction with the city, the city council or any board, commission or department of the city as to which he or she has the power, or apparent power, to take or influence official action.

B. The following shall not constitute gifts for purposes of this section:

1. Campaign contributions reported in full compliance with all federal and state laws as they may apply.
2. A non-monetary award publicly presented by a nonprofit organization in recognition of public service.

3. An occasional non-monetary gift of nominal value, such as food at a reception generally open to officers or employees, so long as such gift does not present any conflict of interest in fact or appearance. For purposes of this section "nominal value" shall mean having a value not exceeding twenty-five dollars (\$25.00) on any occasion or from any one person or entity in the aggregate during a consecutive twelve (12) months period. Officers and employees shall keep a written log of any such gifts made or attempted to be made, whether nominal or having value in excess of twenty-five dollars (\$25.00) and shall immediately disclose any attempt or offer of a gift exceeding nominal value made to such officer or employee in his or her official capacity to the city council (if made to the city administrator, city attorney, any council member or member of a board or commission), or to the city administrator (if made to an employee). The log of gifts received during the preceding year which meet the standard of nominal gifts as herein contemplated shall be filed by officers and employees receiving gifts with the city clerk on or before February 1 of each succeeding year, and shall constitute a public record.

12. REQUESTS FOR OPINIONS

- A. It is recognized that officers and employees will be confronted with ethical considerations not falling within clearly defined standards, which are elusive of resolution. In such circumstances, and before any action is taken to engage in the questioned conduct, such officer or employee may submit a request for an ethics opinion to the city attorney. Such request shall be based on full disclosure of the underlying conditions known.
- B. The city attorney shall issue a written opinion no later than ten (10) business days after submission on the issues presented. If the city attorney is unable to issue an opinion due to conflict or otherwise, such fact shall be disclosed to the city council, which may, at its option, either request the attorney general of the state of Kansas or outside counsel to consider the request presented.
- C. The opinion shall be submitted to the requesting officer or employee, with a copy presented to the officer's board or commission, if applicable, the city council, and the city administrator.
- D. If the officer or employee, the board or commission or city council or the city administrator is dissatisfied with the opinion, the dissatisfied party may request the city council to or the city council may on its own motion, review the opinion on the basis of the written materials

presented. If the circumstances require, the council may secure the assistance of any person or entity having special expertise in the issue of governmental ethical standards. The opinion of the city council shall be final and not subject to any further appeal for purposes of this article. Such opinions shall be advisory only, and shall not serve to exempt or excuse any public officer or employee from fully conforming to this code of ethics, or applicable penal or civil statutes, ordinances and regulations if the questioned conduct is undertaken, however may be considered in mitigation of any violation taken in reliance thereof.

- E. It is hereby declared to be in the public interest to encourage officers and employees to obtain ethics opinions prior to engaging in a course of conduct with potential ethical considerations. The identity of the party requesting an ethics opinion and the document requesting an opinion shall be confidential and not subject to public disclosure except as required by law. Opinions rendered shall generally set forth the question presented and the ethical conclusions reached, and are a matter of public record, unless general discussion of the matter would disclose some issue which would be considered confidential pursuant to the Kansas Open Meetings Act and/or Kansas Open Records Act. All opinions shall be maintained by the city clerk in a separate volume containing all opinions rendered pursuant to this chapter. Nothing herein, however, shall be construed to prevent the disclosure to appropriate authorities of any information presented which shall reveal any criminal activity or civil fraud.

13. VIOLATION OF CODE OF ETHICS

Any complaints against an employee should be submitted to the City Administrator for consideration. Any complaints against the Mayor or a council member should be submitted to the City Administrator for presentation to the Council at the next available council meeting. Any complaints against the City Administrator should be submitted to the Mayor for presentation to the Council at the next available council meeting.

14. PROTECTION FROM RETALIATION

The city council and city administrator as appointing authority, shall not discharge, threaten or otherwise discriminate against any officer or employee, regarding compensation, terms, condition, location or privileges of employment or office on the basis of any report made against any other officer or employee suspected of violating this code of ethics, or in participating in any investigation, hearing or inquiry conducted pursuant thereto. This section, however, shall not apply to any officer or employee who knowingly or with reckless indifference to the truth makes a false report or provides false information.

15. PENALTIES

- A. It shall be unlawful for any officer or employee of the city to knowingly violate any of the provisions of this chapter, and upon conviction, shall be subject to penalty provision provided in the city code.
- B. It shall be unlawful for any officer or employee of the city to knowingly, or with reckless indifference to the truth, make a false report or provides false information: by complaint as provided herein, during the investigatory process, or at any hearing provided under this code of ethics, and upon conviction, shall be subject to penalty provided in the city code.
- C. In addition to the above penalties, an officer or employee, violating the provisions of this chapter shall be subject to any administrative remedy or proceedings, or action brought by the city for civil relief at law or in equity before any court of competent jurisdiction, including actions to recover damages and restitution, injunctive relief, costs, and reasonable attorneys fees incurred by the city in obtaining such relief as may be appropriate.

16. PREROGATIVES OF CITY PROSECUTOR

Nothing in this code of ethics is intended to diminish in any way the prerogative of the city prosecutor to file such criminal charges as are warranted, pursuant to law, or such charges as may be filed pursuant to violations as provided in this code of ethics, or any other section of the city code.

17. CITY ADMINISTRATOR – AUTHORITY TO PROMULGATE ADMINISTRATIVE DIRECTIVES

Notwithstanding the provisions of this chapter, the city administrator, pursuant to the powers granted by the code of ordinances of the city which standards shall not conflict with the federal or state law and the ordinances of the City of Burlingame, shall have the authority to further define ethical standards applicable to city employees. Such administrative directives shall not be subject to the penalty provisions of this chapter, however, shall upon violation, constitute a basis upon which to impose disciplinary action upon the employee as provided by the personnel policies of the city.

SECTION 6 – OUTSIDE EMPLOYMENT

1. GENERAL

Outside employment by City employees is not prohibited, but is regulated by a few important rules. A City employee must not engage in outside employment during regularly scheduled working hours (defined by each department), while at the City's facilities or when using the City's supplies, equipment, materials or personnel. Outside employment must not cause a conflict of interest or cause deterioration in satisfactory performance of duties while in the City's employ. Those employees responding to calls related to the Osage County Fire District No. 6 will be exempt.

Employees shall not engage in outside or other employment or activity which tends to impair their ability to perform the duties and responsibilities assigned them in an acceptable manner. Nor shall employees perform any work in a private capacity which may be construed by the public to be a conflict.

City employees must obtain written approval from their Department Head and the City Administrator to engage in outside employment. A copy of the approval will be provided to the employee, Department Head, City Administrator, and placed in the employee's personnel file. Employees should recognize that any outside employment which might be considered to be joint employment under the provisions of the Fair Labor Standards Act will require close consideration, and conformance with the requirements of that law.

Employees who have accepted outside employment are not eligible to receive compensation during an absence from work which is the result of an injury on the second job, except through properly authorized leave.

SECTION 7 – NEPOTISM

1. GENERAL

For the purpose of this section, relative is defined to include:

Husband	Wife
Mother (in law)	Father (in law)
Aunt	Uncle
Niece	Nephew
Brother (in law)	Sister (in law)
Step Children	Step Parents
Son (in law)	Daughter (in law)
Grandchildren	Grandparents

Appointment of relatives of City employees to regular positions in the City service shall be permitted, provided that the relative shall not be employed in positions where one would be directly supervising the other, or conflict of interest might arise concerning a question of internal control. A regular City employee may not be promoted or transferred into a position involving direct supervision by or of a relative.

Should a marriage between employees result in one having operational or direct supervisory control over the other, transfers must be made to eliminate that situation. If a transfer cannot be accomplished, one party must resign from the City service.

SECTION 8 – TRAINING

1. RESPONSIBILITY FOR TRAINING

The responsibility for developing training programs for employees shall be assumed jointly by the City Administrator and Department Heads. Completion of training programs may be considered in making advancements and promotions.

2. REIMBURSEMENT

The City Administrator may grant reimbursement for classes if the training is in the best interest of the City and prior arrangements with the employee's Department Head and the City Administrator have been made in writing. A copy of the agreement will be placed in the employee's personnel file and copies distributed to the employee, the City Administrator and the employee's Department Head. The course or classes should be taken on the employee's own time. Reimbursement may be granted for books and/or tuition.

The City Administrator may correlate the reimbursement to the grade the employee receives in the class.

SECTION 9 – HEALTH

1. PRE-EMPLOYMENT EXAMINATION

As part of the City's employment procedures, applicants may be required to undergo a post-offer, pre-employment medical examination and illegal drug screening that are conducted by a physician selected by the City. Any offer of employment is contingent upon, among other things, satisfactory completion of this examination and screening and a determination by the City's physician that the applicant is capable of performing the essential functions of the position that has been offered, with or without reasonable accommodations.

2. SPECIAL PHYSICAL EXAMINATION

As a condition of continued employment, employees may also be required to undergo periodic medical examinations that are job related and consistent with business necessity and/or alcohol and drug screening, at times specified by the City. In connection with these examinations, employees are required to provide the City with access to their medical records, if requested. Further, it is important to understand that the City receives medical reports from its physicians regarding the applicant's or employee's health.

3. LIGHT DUTY

Employees who are found by their physicians to be able to perform light duty may be offered light duty jobs, if available, for a limited time if they cannot perform the essential functions of their position. Every attempt will be made to return the employee to duty as soon as possible. During extended periods of light duty, an employee's pay may be adjusted to reflect work assignment and production.

4. MEDICAL EXAMINATIONS

All medical examinations will be conducted by a physician of the City's choice and will be of the type and to the extent determined by the City. All costs associated with required examinations and/or testing will be paid by the City.

SECTION 10 – EMPLOYMENT

1. RECRUITMENT

Recruitment publicity may be carried out through appropriate media for a reasonable period of time to assure sufficient opportunity for the appropriate segment of the labor market to apply and be considered for employment on the basis of abilities and potential. Recruitment shall be carried out on a wide enough scale to ensure an adequate number of applicants for consideration.

2. APPLICATION

All applicants for City employment may make application on forms provided by the City Clerk. The application shall include complete information relating to experience, training, residence, and other necessary qualification information. The City Administrator may use this information to determine applicant eligibility for examination or employment as appropriate. A resume may also be required for some job openings.

Failure to accurately complete the application form may be reason for disqualification from consideration for employment, or dismissal from the City service.

Application forms, when submitted, become the property of the City and shall not be returned. This does not preclude an applicant from requesting a copy of the completed form.

The City Administrator may reject any application which indicates on its face that the applicant does not possess the minimum qualifications required for the position. Applications shall be rejected if the applicant has made any misstatement of any material fact or has practiced any deception or fraud in the application. Defective applications may be returned to the applicant with notice to amend the same, providing the time limit for receiving the application has not expired.

SECTION 11 – EXAMINATION

1. NATURE AND TYPE OF EXAMINATION

The selection techniques used in an examination process, if used, shall be impartial, of a practical nature and shall relate to those subjects which, in the opinion of the Department Head and the City Administrator, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed.

Any examination used shall consist of selection techniques which will fairly test the qualifications of the candidates, such as, but not limited to, achievement and aptitude tests, other written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, medical tests, electronic truth measuring tests, or any combination of these or other tests.

Examinations to measure qualifications of applicants may be conducted by the City Administrator, Department Head, or by persons as properly designated.

2. PROMOTIONAL EXAMINATIONS

Positions are ordinarily filled by promotion from within the City service whenever possible. If qualified applicants for position vacancies are not present in the City service, or if the best interests of the City would not be served through promotion as determined by the City Council, the position vacancy may be filled by an applicant outside the City service.

Except as otherwise approved by the City Council in unusual circumstances, only City employees who have completed the initial six (6) months of employment and who meet the additional requirements of the vacant position can be considered for promotion.

3. EXAMINATION RESULTS

An applicant may review his/her examination results by a request to the City Administrator. If the review should disclose any errors, the examination record of all those affected may be modified by the City Administrator to show a correct record. Requests for examination by any person other than the applicant will be referred to, and reviewed by the City Attorney to ensure that only those records and papers which are considered “public records” according to law are released. The City reserves the right to take into consideration which documents will be deemed public records and those that will not be public records according to law and thus protected to the fullest extent of the law.

SECTION 12 – CERTIFICATION AND APPOINTMENT

1. INTERVIEW, SELECTION AND APPOINTMENT

Upon the vacancy of any position or the creation of a position as described below the following steps will be used to fill the vacant position.

Eligible applicants certified to fill a vacancy shall report for an interview when requested. Failure to report for an interview after prior notice is given to the eligible applicant by the City may be considered a forfeiture of certification.

The following procedures must be followed to hire new personnel internally:

- A. Determine if an internal promotion can be made to fill the position. If someone is interested in the position, the department head responsible for the position will meet with the City Administrator to determine if the person should be recommended to the City Council. If an existing employee is available, the City Administrator will make the recommendation to the City Council at the next available meeting. If no such person exists or the council elects not to accept the recommendation the following steps will be followed.
- B. Advertise the position. The advertisement shall include the position title, work hours, pay, benefits (if any), closing date of position, and any other information deemed important by the department head and/or city administrator.
- C. All applications shall be turned into the City Clerk or his/her appointee.
- D. After the closing date the department head may come to the City Clerk to check out the applications.
- E. The department head or his/her appointee shall select a minimum of three applicants to interview. If the department head wishes to conduct less than three interviews he/she must obtain written permission from the City Administrator. The written permission will indicate the reason for fewer interviews and will be signed by the department head and City Administrator. Any applicant not reporting on time for an interview will be considered to forfeit the interview.
- F. A questionnaire form must be filled out by the department head or his/her appointee for each interviewee. Upon completion of the interviews the following items must be submitted to the City Administrator:

- 1.) Folder with all original applications.
 - 2.) Questionnaire from each interview.
 - 3.) Personnel action request form with recommendation.
 - 4.) Memo stating why recommendation to hire selected person over other applicants.
- G. The City Administrator will review the above information and make a recommendation to the City Council for approval.
- H. The City Council can take any of the following actions:
- 1.) Take the recommendation of the City Administrator and hire the recommended person.
 - 2.) Hire another applicant over the recommendation of the City Administrator.
 - 3.) Make a conditional appointment of one of the applicants based on passing a pre-employment physical, fingerprinting, background check, physiological examination, other examinations, and/or drug test.
 - 4.) Direct the City Administrator and Department Head to re-advertise the position for more applicants.
 - 5.) Appoint someone currently employed by the City to fill the position.
 - 6.) Leave the position vacant.
 - 7.) Any other action deemed appropriate by the City Council.
- I. Once the City Council has appointed someone to fill the position, the appropriate personnel action request form will be forwarded to the City Clerk by the City Administrator for processing.
- J. A copy of the completed Personnel Action Request form will be provided to the Department Head and City Clerk by the City Administrator. The Department Head will contact the applicant to inform the applicant that they have been hired. If the applicant accepts the position, the department head will inform them of their start date and that they need to set up an appointment with the City Clerk to fill out any paperwork that is necessary.

- K. The applicant shall fill out all necessary paperwork and return it to the City Clerk before reporting to work.

2. APPOINTMENTS

Appointments to vacant positions in the City service shall be made in accordance with these personnel rules. Appointments and promotions shall be based on merit and fitness to be ascertained so far as practicable by competitive examination. Examinations may be used and conducted to aid in the selections of qualified employees and shall consist of selection techniques which will test fairly the qualifications of candidates through written tests, personal interviews, performance, work samples, polygraph or any combination of these or other tests.

All appointments shall be made by the City Council, upon the recommendation of the City Administrator and/or Department Heads.

During the period of suspension or incapacity of an employee, such vacancy may be filled by the City Administrator.

3. ESTABLISHMENT OF NEW POSITIONS

Whenever a new position is proposed, the Department Head shall forward to the City Administrator a description of the duties and responsibilities and recommended pay range for the position. The City Administrator shall, after a study of duties, responsibilities and qualification requirements, allocate the position to its appropriate class in the classification plan and recommend an appropriate pay range. If no appropriate class exists, a new classification shall be established by the City Administrator.

The proposed position and recommended pay range shall be submitted to the City Council for approval. New positions shall be filled in the manner and order prescribed in these rules.

4. ABOLISHMENT OF POSITIONS

The City Administrator may recommend to the City Council to abolish any position in the City service. Employees transferred or laid off because of the abolishment of positions shall not have the right to appeal.

SECTION 13 – CONDITIONS OF EMPLOYMENT AND STANDARDS OF CONDUCT

1. GENERAL

Listed below are some of the rules and regulations of the City of Burlingame. The City will expect its employees to maintain a high level of personal and professional conduct at all times, and will take appropriate action when this standard is not met. The following are examples of unacceptable behavior and conduct that the City considers inappropriate and could lead to disciplinary action up to and including discharge. This list includes, but is not limited to the following:

- a. Unsatisfactory work performance.
- b. Abusiveness in attitude, language, or conduct to the public, or fellow employees.
- c. Violation of any lawful or official regulation or order. Refusal or failure to obey any lawful and reasonable direction given by the employee's superior officer or supervisor.
- d. Violation of the City's alcohol and drug abuse policy.
- e. Accepting a bribe in the course of work or in connection with it.
- f. Using, threatening to use, or attempting to use undue influence, extortion or blackmail in securing employment benefits or advantages for the employee or any other person.
- g. Conduct of a type, which will bring discredit or embarrassment to the City.
- h. Falsification of City documents or records, making false statements concerning duties with the City, or using fraud to secure an appointment with the City.
- i. Causing damage to public property or wasting public supplies due to negligence or willful misconduct.
- j. Failure to maintain an acceptable attendance record.
- k. Engaging in outside business activities on City time or using City property for personal use.

- l. Engaging in unlawful discriminatory action against another employee or applicant for employment on the basis of race, sex, religion, color, national origin, age, disability or any other group protected by law.
- m. Failure to maintain minimum standards, licenses or qualifications required for any position.
- n. Any conduct declared unlawful under Federal, State or local law.
- o. Failure to pass random drug test.
- p. Failure to pass post accident drug and/or alcohol test.

SECTION 14 – DISCIPLINARY ACTION

1. PURPOSE

The proper performance of an employee's work and conduct befitting the employee's position play an important part in the continuance of employment with the City. Disciplinary actions shall be a constructive means of dealing with an employee's unacceptable conduct or performance and should be appropriate to the seriousness of the infraction of performance deficiency. Disciplinary actions may include verbal reprimand, written reprimand, disciplinary probation, suspension, demotion and dismissal.

2. REPRIMAND

A reprimand may be issued by the City Administrator, a Department Head, or a designated representative to an employee for an offense when, in the City Administrator's discretion, other forms of discipline are not warranted. A reprimand shall be in writing and a copy shall be forwarded to the City Administrator for insertion in the employee's personnel file.

3. SUSPENSION

The City Administrator has the authority to suspend an employee with pay for a maximum of three (3) days pending review of the situation by the City Council.

The City Council may place an employee on paid administrative leave for an indefinite amount of time for purposes including but not limited to disciplinary action or investigations.

The City Administrator with the approval of the City council may suspend a non-exempt employee without pay at any time for disciplinary reasons, not to exceed three (3) working days. The City Council may suspend an employee without pay not to exceed thirty (30) calendar days. Any employee who is suspended for more than three (3) working days may request a pre-suspension hearing with the City Council. This request must be made in writing. The City Administrator may suspend an employee with pay pending completion and disposition of an investigation.

4. DEMOTION

The City Administrator, after approval by the City Council, may demote an employee whose ability to perform required duties falls below the minimum job requirements or for disciplinary reasons as provided in this article. No

employee shall be demoted to a position for which he/she does not possess the minimum qualifications.

Written notice of the intended action shall be given to the employee before the effective date of the demotion, and a copy shall be filed in the employee's file. Any employee who is demoted may request a pre-demotion hearing with the City Council. This request must be made in writing.

Final authority for demotion rests solely with the City Council.

5. DISMISSAL

- a. Authority: The City Council may dismiss an employee from the City service.
- b. Hearing: The employee may request a hearing with the City Council regarding the dismissal within ten (10) calendar days of the dismissal.
- c. Notification: The Mayor shall sign a written order, which shall constitute the Notice of Dismissal.

6. INSURANCE PREMIUMS

The City will not pay any portion of any employee's insurance premium during the period of a thirty (30) day suspension. A suspended employee who wishes to continue any insurance coverage must pay the premium directly to the City Clerk within two (2) working days of the beginning of the suspension.

SECTION 15 – CHANGES IN ASSIGNMENTS

1. PROMOTION

- a. **Eligibility:** Promotional examinations are open to all employees who meet the minimum qualifications in the City service and who are not on probation, except that an employee who has been demoted at their own request or for cause may not compete in a promotional examination for ninety (90) days after the effective date of the demotion. The City Administrator with the approval of the City Council may waive these limitations.

2. TRANSFER

- a. **Intra-Department Transfer:** The City Administrator may transfer an employee to a different position within the department at the same pay range with the approval of the City Council.
- b. **Inter-Department Transfer:** An employee may be transferred to a different position in the same pay range in another department with the approval of the City Council.
- c. **Reason for Transfer:** An employee may be transferred at the employee's request, for the convenience of the City, or because the employee is no longer capable of performing the essential functions of the position with reasonable accommodation.
- d. **Qualifications:** A transferred employee must meet the minimum qualifications for the class to which the employee may be transferred.
- e. **Multiple Request:** If two (2) or more employees request a transfer to the same vacant position, the City Administrator shall require examination in the same manner as for promotional vacancies. If an employee requests a transfer for which the employee is qualified and such a position is not open, the employee's name shall be placed on the eligibility list for that classification.

3. DETAIL

- a. **Authority:** With the approval of the employee and the City Administrator, a Department Head may place the employee on temporary detail to a higher range position than that normally covered by the employee's job classification.
- b. **Duration:** No temporary detail shall extend beyond a period of six (6) months unless approved by the City Council.

SECTION 16 – POSITION CLASSIFICATION PLAN

1. GENERAL

The City Administrator or a person or agency employed for that purpose, shall ascertain and record the duties and responsibilities of all positions in the classified service and, after consultation with the Department Heads affected, shall recommend a classification plan for such positions to the City Council. The classification plan shall consist of classes of positions in the classified service defined by class specifications, including job titles. The classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority and character of work are included within the same class, and the same schedules of compensation may be made to apply with equity under like working conditions to all positions in the same class. The plan shall be amended as the duties, responsibilities, and employment conditions change by the City Council.

SECTION 17 – COMPENSATION AND BENEFITS

1. PREPARATION OF PLAN

The City Administrator or a person or agency employed for that purpose, shall prepare a pay plan covering all positions in the classified service and present the plan to the City Council for approval. In arriving at salary rates of pay consideration will be given to working conditions for comparable work in public and private employment, current costs of living, suggestions of Department Heads, to the City's financial condition and policies, and all other relevant factors (education, training, years of service, etc.).

2. ADOPTION, AMENDMENT OR REVISIONS OF PLAN

After initial approval, the pay plan may be amended from time to time after consideration and approval by the City Council. When the pay plan is amended all personnel will be adjusted appropriately by the City Council.

3. APPLICATION OF RATES

Employees occupying a position in the City services shall be paid a salary or wage established for that position's class under the pay plan. A new employee shall start at the first step in the appropriate class unless the City Council determines that qualified applicants are not available at the salary specified at the first step or that an applicant has special qualifications that justify a higher starting rate than the first step.

4. SALARY RANGES

Each position is assigned to a salary range that through the application of other provisions of this policy is deemed appropriate. Each employee may be advanced through the salary range on the basis of performance to the next step in that pay range until the maximum step in the pay range is reached. Advancement shall be subject to recommendation by the employee's Department Head and the City Administrator through the formal evaluation process and approved by the City Council.

5. PERFORMANCE INCREASES

a. City employees shall be eligible for consideration for performance or pay increases as follows:

1. Step increase(s) upon successful completion of a six (6) month period.

2. Step increase(s) in each twelve (12) month period of service, to be granted on the anniversary date based on a performance evaluation. Such increase(s) shall not be automatic but shall depend on increased service value of an employee to the City as exemplified by the recommendation of the supervisor, performance record, special training undertaken, or other pertinent evidence with the advancement policy established by the plan.

The employees' anniversary date is the original hire date and can change when a promotion, a demotion, or a transfer occurs. It is the date prior to which the annual performance report is accomplished and the dates upon which performance increases are granted.

All salary increases will take effect beginning on the first day of the next pay period following the City Council's approval unless otherwise stated.

6. UPWARD SALARY ADJUSTMENTS

- a. When an employee's position is reclassified to a higher level classification, or when a classification is assigned to a higher salary range, the following guidelines shall determine the affected employee's salary;
 1. In all cases, every affected employee shall be assigned to one of the steps specified in the new salary range.
 2. In no case will an employee receive a decrease in rate of pay as a result of a salary adjustment to a higher salary range.
 3. Employees assigned to a higher pay range that overlaps with their range shall be placed at the range step which will result in at least a one-step increase over current rate of pay.
 4. Affected employees shall retain their classification dates for the purposes of performance evaluation and increases.

7. TEMPORARY ASSIGNMENT

Upon the recommendation of the Department Head and approval of the City Administrator, an employee may be assigned, on a temporary basis, to a higher grade position than that normally covered by his/her job classification. Such assignment shall be limited to a period of six (6) months. If the appointment is longer than two consecutive pay periods, the employee shall be paid at the rate one step above their current pay grade but no less than the minimum pay to which class the employee has been

appointed beginning with the first day of the assignment. If the appointment is to be for less than two pay periods, the Department Head may recommend that the employee be paid at the rate of the temporary assignment.

8. CLOTHING AND UNIFORMS ALLOWANCE

Clothing allowances and uniform privileges shall be set by the City Council in its annual budget and administered by the City Administrator.

9. REIMBURSEMENT FOR EXPENSES

The City Administrator shall have the authority to establish administrative regulations providing for the reimbursement to employees and officers of the City for actual and necessary expense incurred while engaged in City business including approved travel and conference expenses.

10. LONGEVITY PAY

The City offers a plan for full time employees that remain employed with the City for longer periods of time. The following schedule will be used.

<u>Years of Service</u>	<u>Deduction per month</u>	<u>Savings Bond</u>
0-3	\$0	\$0
4-9	\$25	\$50
10+	\$50	\$100

This is a voluntary program. If the employee is eligible and wishes to participate, a form can be obtained from the City Clerk. If the employee wishes to participate during year four (4) through nine (9) the City will automatically deduct \$12.50 from each paycheck (in the event of three paycheck in one month, no deduction will occur on the third paycheck) and match the amount. At the end of each month a \$50 savings bond will be purchased by the City for each participating employee. The City Clerk upon receipt will then distribute the savings bonds for use by the employee. Starting in year ten (10), if the employee elects to participate, the City will deduct \$25 from each paycheck and match the amount to purchase a \$100 savings bond for each participating employee. The City Clerk upon receipt will then distribute the savings bonds for use by the employee.

11. HEALTH, DENTAL, VISION AND LIFE INSURANCE

The City offers every employee working a minimum of one thousand (1,000) regularly scheduled hours per year coverage under a group health, dental, vision (effective January 1, 2005) and life insurance (KPERs) policy. See

the City Clerk for current forms and a copy of the rules and regulations for each of the policies.

The City provides short term disability insurance for all full time employees at no cost.

12. KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

Retirement benefits are required by all qualified employees of the City of Burlingame through the Kansas Public Employees Retirement System.

13. SHORT TERM DISABILITY INSURANCE

The City will pay for short term disability insurance for all full time employees.

SECTION 18 – SALARY PLAN

1. GENERAL

The City Administrator will recommend a specific salary range for each position with the City to the City Council for approval.

2. SALARIES

Except as otherwise provided, all City classified employees shall be paid a salary within the range to which their class is assigned.

3. ENTRANCE RATES

- a. Except, as specified below, all new employees shall be paid at the first step of the range to which their class is assigned.
- b. If the City Council determines that qualified applicants are not available at the first step of the range for the class, the City Council may establish a higher step as a special recruitment rate.
- c. If the City Council determines that a particular applicant has special qualifications that justify a salary higher than the first step of the range, the City Council may authorize a special entrance rate at a higher step within the salary range for that individual.

4. PROMOTION

An employee who is promoted shall receive a salary which is at least one step higher than the salary received at the former range.

5. TRANSFER

An employee transferred in the same range shall receive the same salary as before the transfer.

SECTION 19 – PERFORMANCE RATING

1. GENERAL

To ensure that employees perform their jobs to the best of their abilities, it is important that the City recognize their good performance and provide appropriate suggestions for improvement when necessary. Consistent with this goal, employees will be evaluated, usually by their immediate supervisors, on a periodic basis, typically two (2) weeks before the end of his/her six (6) month anniversary period and January of each year thereafter.

If an employee does not receive a periodic performance review, it is that employee's responsibility to inform the supervisor or Department Head in writing with a copy provided to the City Administrator. This will help the City ensure that the appraisal process is administered in a timely manner.

Performance reviews are based on an employee's overall performance in relation to the job responsibilities and will also take into account conduct, demeanor and record of attendance and tardiness. Employees shall sign the evaluation to indicate acknowledgement, and may submit written comments in response to the evaluation. The evaluation, and any comments, will be maintained in the employee's personnel file.

An employee may discuss any aspect of his or her evaluation with the City Administrator, who may alter or amend an evaluation.

Copies of the review will be provided to the City Council for review at the first meeting in February of each year for review and discussion and possible salary increases.

SECTION 20 – LEAVING THE CITY SERVICE

1. RESIGNATION

An employee wishing to leave the City service in good standing shall file with his/her Department Head at least ten (10) working days before leaving the service. A written resignation stating the effective date and the reasons for leaving.

The resignation shall be forwarded to the City Administrator for processing. Upon receipt of the signed resignation, the City Administrator or his/her designee shall prepare the appropriate release documents.

Failure of the employee to comply with the provisions of this article shall be entered into the employee's personnel file and may be cause for denial of future employment with the City.

Employees leaving the City service shall turn in all City property and clear all debts to the City prior to receiving the final paycheck.

SECTION 21 – LEAVE

1. GENERAL

The policies established in this section will be applied to new and existing employees. Existing employees will continue to receive and accrue leave at their current levels until they reach a level that will entitle them to accrue at increased rates.

2. HOLIDAY

The City of Burlingame observes the following holidays:

- New Year's Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- Friday following Thanksgiving Day
- Christmas Day

Part time and seasonal employees are not entitled to holiday pay. Employees who are on unpaid leave or on unpaid suspension are not entitled to holidays.

When any of the above holidays fall on a Sunday, the following Monday shall be observed as a holiday. When any of the above holidays fall on a Saturday, the prior Friday shall be observed as a holiday. The City Administrator shall do all in his power to maintain essential services during the holiday.

If the holiday falls on an employee's regular scheduled work day and he does work, he shall receive his regular wage for actual hours worked plus eight (8) hours holiday pay.

Paid time off for religious holidays may be granted by the City Administrator.

3. PERSONAL LEAVE

Personal leave is provided to full time employees of the City. Three (3) days or twenty-four hours are provided during the first pay period of each year and must be taken during the year provided. Any personal leave time not used by the end of the last pay period of each year will be lost, with no exceptions.

4. VACATION LEAVE

Vacation leave is provided to full time employees of the City to enable each eligible employee to return to work mentally refreshed. All full time regular employees in the City service shall receive annual vacation pay as follows, beginning with the December 19, 2004 pay period:

<u>Years of Service</u>	<u>Accrued per Year</u>	<u>Accrued per Pay Period</u>
Start of employment	10 days	3.08 hrs
After 10 year anniversary	15 days	4.62 hrs

On January 1, 2005 all full time employees will receive the following vacation credits:

<u>Years of Service</u>	<u>Vacation Time</u>
<1	40 hours
1-14	80 hours
15+	120 hours

During the first six (6) months of employment with the City, an employee will accrue vacation time, but cannot use it. Following six (6) months of service, vacation leave may be taken subject to the accrual schedule as established in this policy.

An employee may not accrue more vacation leave than 240 hours.

The City Administrator may grant certain exceptions to the provisions of this policy upon written request from any employee eligible to take vacation leave.

5. LEAVE PAYOFF AT DISMISSAL

Employees who have satisfactorily completed the initial twelve (12) months of service and who dismiss employment shall be paid in a lump sum for all compensation time, vacation leave, fifty (50) percent of sick leave, and personal leave accrued prior to the effective date of dismissal. Employees who dismiss in their initial twelve (12) month period shall not be entitled to receive vacation leave, sick leave, or personal leave pay.

Sick leave time accrued on or before December 18, 2004 will be paid 100%, sick leave accrued beginning December 19, 2004 will be paid at 50%.

6. LEAVE SCHEDULING

The times during a calendar year at which an employee may take vacation time shall be determined by the Department Head with due regard for the wishes for the employee and particular regard for the needs of the service. Except under unusual circumstances, requests for vacation leave shall be made by the employee to the supervisor far enough in advance to allow the supervisor to plan for the absence.

7. SICK LEAVE

The purpose of sick leave is to ensure the employee will receive a full paycheck in case of actual personal sickness or disability. Sick leave shall not be considered a right which an employee may use at his/her discretion, but is a privilege and shall be allowed only in case of actual personal sickness or disability, or as otherwise provided in this section.

Sick leave with pay will be granted to all full time regular employees in the City service. In order to receive compensation while absent on sick leave, the employee shall notify the appropriate supervisor prior to or within one hour of the normal starting time for the employee. Failure to do so will result in the employee being considered absent without approved leave. When absence is for more than three (3) consecutive working days, the employee may be required to file a physician's certification stating the cause of the absence.

In the event that an employee becomes sick or has an accident during paid time off for vacation, with proper medical documentation, the time may be charged to accrued sick time.

Sick leave shall be accrued at the rate of 3.69 hours per pay period (12 days per year) for all full time employees working a scheduled forty (40) hours per week. All employees may accrue up to sixty (60) days or four hundred eighty (480) hours of sick leave.

Employees may sell back fifteen (15) days at their current rate of pay when they have accumulated sixty (60) days of sick leave, thus reducing their sick leave to forty-five (45) days.

Misuse or abuse of sick leave is cause for disciplinary action as provided in this policy. Any employee who has exhausted available sick leave may substitute with accumulated vacation or personal leave.

Sick leave accrued on or before December 18, 2004 must be used first. Once this sick leave is used the employee may begin using sick leave accrued after December 19, 2004.

8. FAMILY SICK LEAVE

Normal sick leave may be used for family sick leave and may be taken by an employee in cases where the employee's presence is required elsewhere because of sickness or disability of a relative.

9. SICK LEAVE IN RELATION TO WORKMAN'S COMPENSATION

Employees are insured by the City, under the Kansas Workman's Compensation statutes, against injuries and illnesses occurring in the course of City employment. The law provides for payment of medical expenses and under certain circumstances, compensation for loss of income. It is mandatory that every job-related injury or illness, regardless of severity, be reported immediately to the supervisor and a written report prepared and submitted to the City Clerk.

Payment of medical expenses shall be paid for the first seven (7) days after the injury or illness when the employee is absent from work. If the disability extends beyond the seven (7) day period, workman's compensation shall begin on the eighth day the employee is absent from work. If the absence continues beyond the thirteenth day, compensation shall be computed and made retroactive to the date the injury or illness occurred.

During the first seven (7) days, the city will pay two-thirds (2/3) of the employees salary. If the absence continues beyond the thirteenth day and workman's compensation makes a retroactive payment the employee should reimburse the City for those first seven (7) days.

During those periods when workmen's compensation is not providing pay it must be charged to the employee's accrued sick leave or vacation leave if all sick leave has been exhausted.

An employee receiving temporary disability payments under the workman's compensation laws may use accumulated sick leave in order to continue to maintain his or her regular income. However, all employees receiving full salary in lieu of temporary disability payments shall remit any funds received under workman's compensation to the City. An employee receiving workman's compensation and not supplementing their income with sick leave shall not accrue sick or vacation leave or receive pay for holidays for any pay period they do not actually perform their duties. The employee's accumulated sick leave shall be used until it is exhausted. Thereafter, vacation time may be used until it is exhausted.

10. RETURN TO DUTY

A certification from a licensed physician or practitioner allowing an individual to return to work is required for any absence, due to illness or injury, when it

is determined by the Department Head that one is necessary to establish that an employee is fit to perform the essential functions of his/her position.

11. BEREAVEMENT LEAVE

A full-time employee may be granted paid bereavement leave due to a death in the immediate family.

For the purpose of this section the term immediate family means the employee's spouse, child, stepchild, mother, father, step-mother, step-father, sister, step-sister, brother, step-brother, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandparent, and grandchild.

The amount of bereavement leave is limited to three (3) days. If the employee wishes to take leave beyond twenty-four (24) hours, an additional sixteen (16) hours may be charged to sick leave. Sick leave taken for this purpose shall be charged against sick leave for purposes of the sick leave incentive policy.

Bereavement leave can be only be used by employees with more than six (6) months of service.

12. MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of State and Federal Law. All employees entitled to military leave shall give their supervisors an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

13. JURY DUTY LEAVE

Every full time regular employee of the City who is required to serve as a juror shall be entitled to absent themselves from their duties with the City during the period of such service or while necessarily being present in court as a result of such call. Under such circumstances, the employee shall be paid full salary and any payment received from the court shall be remitted to the City, except travel pay, for such duty. Employees subpoenaed to testify as witnesses in criminal or civil cases shall be entitled to absent themselves in the same manner as for jury leave.

14. INSURANCE PARTICIPATION

Employees on special leaves without pay are responsible for the payment of the entire insurance premium. Each such employee must make the premium payment directly to the City Clerk in order to continue coverage.

15. FAMILY AND MEDICAL LEAVES OF ABSENCE

- a. Employees who qualify for a leave under the Family and Medical Leave Act of 1993.

The City will grant a leave of absence to employees (who meet the requirements described below) for the care of a child after birth or adoption or placement with the employee for foster care, the care of a covered family member (spouse, child, or parent) with a serious health condition, or in the event of an employee's own serious health condition. Leaves will be granted for a period of up to twelve weeks in any consecutive twelve-month period.

An employee must have completed at least one full year of service with the City and have worked a minimum of 1,250 hours in the twelve-month period preceding the leave to be eligible for such leave. Employees who do not meet these requirements may apply for a leave of absence subject to the conditions described in part B of this Policy.

Child/Family Care Leave

If you request a leave of absence to care for a child after birth, adoption, or placement in your home for foster care or to care for a covered family member with a serious health condition, you will be granted unpaid leave under the following conditions:

1. If the leave is planned in advance, you must provide us with at least thirty (30) days' notice prior to the anticipated leave date, using the City's official Leave of Absence Request form.
2. If the leave is unexpected, you should notify your supervisor and the City Administrator by filing the Leave of Absence Request form as far in advance of the anticipated leave date as is practicable. This should be within two business days of when the need for the leave becomes known to the employee.

All benefits that operate on an accrual basis (e.g., vacation and sick days) will cease to accrue during any period of FMLA leave, which is unpaid.

You will be required to use all unused vacation during the leave period. Once such benefits are exhausted, the balance of the leave will be without pay.

All group health benefits (e.g., medical, dental, vision, and life insurance) will continue during the leave provided you continue regular employee contributions to these plans.

Employees requesting a leave to care for a covered family member with a serious health condition may be required to provide medical certification from the family member's physician attesting to the nature of the serious health condition, probable length of time treatment will be required, and the reasons that the employee is required to care for this family member. Employees may also be required to provide additional physicians' statements at the City's request at reasonable intervals. Further, the family member may be required to submit to a medical examination by a physician designated by the City at its' expense.

Leave for Employees' Serious Health Condition

If you request a leave of absence for your own serious health condition, you will be granted leave under the following conditions:

1. If the leave is planned in advance, you must provide us with at least thirty days' notice prior to the anticipated leave date, using the City's official Leave of Absence Request form.
2. If the leave is unexpected, you should notify your supervisor and the City Administrator by filing the Leave of Absence Request form as far in advance of the anticipated leave date as is practicable. This should be within two (2) business days of when the need for the leave becomes known to the employee.
3. Any time that you expect to be or are absent for more than five consecutive work days as a result of your own serious health condition (including pregnancy), you will be required to submit appropriate medical certification from your physician. Such certification must include, at a minimum, the date the disability began, a diagnosis, and the probable date of your return to work.

All benefits that operate on an accrual basis (e.g., vacation and sick days) will cease to accrue during any period of FMLA leave, which is unpaid.

You will be required to use all accrued, unused vacation and sick leave days during the leave. Once such benefits are exhausted, the balance of the leave will be without pay, unless you are eligible for short-term disability benefits.

All group health benefits (e.g., medical, dental, and vision) will continue during the leave provided you continue regular contributions to these plans.

During your leave, you may also be required to provide the City with additional physicians statements on request from the City or the City's insurance carriers at reasonable intervals, attesting to your continued disability and inability to work. You may also be required to submit to medical examinations by physicians designated by the City at its' discretion and at the City's expense, at the beginning of, during, or at the end of your leave period, and to provide the City with access to your medical records as required.

Before you will be permitted to return from medical leave, you will be required to present the City with a note from your physician indicating that you are capable of returning to work and performing the essential functions of your position, with or without reasonable accommodation. Where required, the City will consider making reasonable accommodation for any disability you may have in accordance with applicable laws.

Leave Entitlement

Eligible employees are entitled to a leave for up to twelve (12) weeks in any twelve (12) month period (or longer if required by applicable state or local law, or in the case of a leave for an employee's serious health condition where a leave extension is requested and approved).

Leave taken to care for a child after birth, adoption, or placement in your home for foster care must be taken in consecutive workweeks. Leave taken for the employee's or a covered family member's serious health condition may be taken consecutively, intermittently, or on a reduced work/leave schedule based on certified medical necessity. In such instances, the City will follow applicable federal and state laws in reviewing and approving such leave requests.

Reinstatement Rights

Eligible employees are entitled on return from leave to be reinstated to their former position or an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Exceptions to this provision may apply if business circumstances have changed (e.g., if the employee's position is no longer available due to a job elimination). In addition, employees on a leave extension are not guaranteed reinstatement. These employees

will be handled in accordance with the reinstatement provisions in Part B of this policy.

b. Other Leaves without Pay

Employees who do not qualify for leaves under Part A may request leaves of absence, subject to the following terms and conditions:

1. Leave requests must be made at least thirty (30) days in advance of the date the employee would like the leave to begin or in emergency situation, with as much advance notice as is practicable using the City's official Leave of Absence Request form. This should be within two (2) business days of when the need for the leave becomes known to the employee.
2. The certification requirements and the conditions for required use of accrued time off, benefits accrual, and continuation of group health insurance during leave set forth in Part A apply to all leave requests.
3. Unless applicable state or local law requires otherwise, leaves will be limited to a four (4) week maximum duration.
4. Unless applicable state or local law requires otherwise, reinstatement will not be guaranteed to any employee requesting a leave under the Part B. However, the City will endeavor to place employees returning from leave in their former position or a position or a comparable in status and pay, subject to budgetary restrictions and the City's need to fill vacancies and its' ability to find qualified temporary replacements.

All questions regarding leaves of absence should be directed to the City Administrator. Leave of Absence Request forms are also available from the City Administrator or City Clerk.

SECTION 22 – SICK LEAVE BANK

1. GENERAL

Full time Town employees have the option to voluntarily contribute unused sick leave to a bank in order to provide assistance to fellow employees in the event of a qualifying illness or injury. The bank is to be used by employees who have exhausted all sick leave and vacation benefits and have suffered an illness or injury that completely incapacitates an employee or immediate family member from performing any type of work. A qualifying illness or injury is limited to personal, unplanned events and excludes on-the-job injuries covered under Workers' Compensation.

The committee, which is appointed by the City Administrator, consists of five (5) members and has representation from all areas of City employment, will serve as the Sick Leave Bank Committee and will administer the Sick Leave Bank. The Committee has the following representation:

- one representative from the City Clerk's Office
- one representative from the Public Works Department
- one representative from the Police Department
- one representative at large
- City Clerk

2. ESTABLISHING THE BANK

The Sick Leave Bank shall be established by allowing employees to contribute hours to the bank.

Donated sick leave time will be directly subtracted from the donator's sick leave balance. Donators will have to complete a form indicating the amount of time they wish to contribute to the Bank. Said forms will be kept on file for future reference. Donations to the Sick Leave Bank will be totally voluntary.

Donated sick leave can not be withdrawn from the Pool at a later date, and therefore employees are encouraged to be conservative on calculating the sick leave they can afford to donate.

A qualifying employee may receive up to a maximum of 480 hours (60 days) donated sick leave per request. Employees that exhaust their donation from the Sick Leave Bank and are still have a need can reapply for additional donations.

3. PROCEDURES FOR SICK LEAVE BANK COMMITTEE

The City Clerk will serve as the resource member of the Sick Leave Bank Committee. All requests for donations of sick leave time from the Bank should be submitted to the City Clerk who will schedule a meeting and pass the requests on to the Sick Leave Bank Committee.

The Sick Leave Bank Committee shall keep all requests and supporting documentation strictly confidential and any breach of confidentiality will be means for the City Administrator to dismiss an individual from the Committee immediately.

It will be the Committee's responsibility to determine whether the illness/injury merits sick leave assistance, and therefore the Committee will have the right to review the applicant's leave history, and request any other pertinent information to assist them in making a decision regarding the request. The City Administrator will have final decision on other pertinent information requested.

The Committee will review each application and make their decision on a majority vote. Individual committee members may abstain from being involved in specific appeals based on the time element or for personal reasons, but in no instance shall less than three (3) members review a request for donation.

The City Clerk will relay all Committee decisions to the City Administrator. The City Administrator retains the right to override any decision made by the Committee. If the City Administrator feels the need to override a decision, he/she will then meet with the Committee and outline the reasons for his/her decision.

The City Clerk will notify the applicant of the Committee's decision and if a donation is granted, will credit the applicant's sick leave account with the appropriate amount of donation granted.

4. PROCEDURES FOR EMPLOYEE REQUESTS FROM THE BANK

Applications must be made on the appropriate form, which can be obtained from the City Clerk, or from the City's Employee Manual. All applications must include a written recommendation from the Department Head.

Applications should be completed by the employee or by his/her representative if the employee is too sick to represent himself/herself.

The applicant must be a full-time employee of the City of Burlingame, and be employed by the City for at least six months.

The applicant must use all accrued sick leave and vacation prior to using any hours received from the Sick Leave Bank.

If an employee leaves the City's employment after Sick Leave Bank days have been donated to him/her, or returns to work on a full-time basis, the unused days granted from the Bank will revert back to the Bank.

Once notice of dismissal of employment has been given, either by an employee or by the City of Burlingame, requests for sick leave from the Bank will be refused.

The City will continue to pay health insurance premiums at the same rate for those employees receiving sick leave from the Bank. Employees will discontinue accruing benefits after one month of absence from the job in accordance with the policy on Family and Medical Leave, Section 21.

City of Burlingame

Sick Leave Bank Donation Form

I _____, do hereby donate _____ hours of my accrued sick leave to the City of Burlingame Sick Leave Bank.

As a participant in the Sick Leave Bank, I understand that:

- These donated hours will be deducted from my accrued sick leave hours, and my sick leave hours' balance can only be replenished through the normal accumulation process.
- My election to participate is non-revocable.
- My donated hours of sick leave can only be used to provide assistance to those employees who have a qualifying illness or injury.
- The Sick Leave Bank will be administered by the City of Burlingame Sick Leave Bank Committee which consists of five (5) members representing the various departments of the City of Burlingame.

Employee Signature

Date

City of Burlingame

Sick Leave Pool Request Form

Employee Name _____

Position _____ Department _____

Social Security No. _____ Home Telephone # _____

Home Address _____

Number of Days Requested _____

Date Paid Leave will be Exhausted _____

Describe the illness or injury making this request necessary

Additional information regarding the illness/injury such as documentation from the doctor or other pertinent information should be attached. The Committee reserves the right to request additional information, which may include a second opinion to be obtained at the employee's expense if necessary.

NOTE: The Sick Leave Bank will not be an option for those eligible for or receiving Workers' Compensation or disability compensation. All benefit leave days must be exhausted prior to using any hours donated from the Sick Leave Bank.

Employee Signature

Date

This form should be submitted to the City Clerk.

SECTION 23 – GRIEVANCE PROCEDURE

1. GENERAL

- A. The purpose of this section is to promote improved employer-employee relations by establishing grievance procedures, which provide a full and fair hearing of employee dissatisfactions, and to assure employees of freedom from reprisal as a result of airing a grievance. It is also the goal of this procedure to resolve grievances as near as possible to the point of origin and provide that grievances shall be conducted as formally as possible.
- B. Any employee may appeal, through the grievance procedure, decisions affecting his/her employment with the following exceptions:
 - 1. The content of the Classification Plan. The employee may file a grievance concerning his/her allocation to a given class, but not the structure of the plan itself.
 - 2. Content and Structure of the Pay Plan. An employee may file a grievance regarding the denial of an increase or a demotion, but he/she may not file a grievance regarding the basic rates paid by the City to the incumbents of a given job classification.
 - 3. Matters related to the general goals of the City, work techniques, the organization of departments, and other matters which are generally agreed to be the prerogative of management.
 - 4. Matters related to suspension, demotion, or dismissal.
- C. An employee who has a problem or a complaint, should first attempt to settle the matter through discussion, if the employee does not believe the matter has been satisfactorily resolved, he/she shall have the right to discuss it with his/her supervisor's immediate supervisor if any, or with the City Administrator. Every effort should be made to find an acceptable solution by informal means at the lowest possible level of supervision. If the employee is dissatisfied with the results of the informal grievance procedures, he may file a formal grievance as provided in Paragraph D below.
- D. Formal Grievance Procedures.
 - 1. Formal grievances shall be presented in writing and submitted to the employee's immediate supervisor.

2. The grievance shall state the nature of the action or decision, which is being appealed, and the nature of the corrective action sought.
 3. A formal grievance must be filed within fifteen (15) days of the date of the action or decision being appealed, unless the period of more than fifteen (15) days has been consumed in pursuit of a solution through the informal grievance procedure.
 4. If the employee's immediate supervisor is not a department head, he/she shall immediately, upon receipt of a formal grievance, consult with the department head concerned, and they shall, within ten (10) calendar days, inform the employee of their decision regarding his/her grievance. This reply shall be in writing, and shall state the department head and supervisor's decision and the reasons therefore. Copies of the employee's grievance and the department head and supervisor's reply shall be forwarded to the City Administrator.
 5. If the employee does not agree with the supervisor and the department head's decision or if no answer is received within ten (10) calendar days, the employee may present his appeal in writing to the City Administrator. Failure of the employee to take further action within ten (10) calendar days after receipt of the written decision of his/her supervisor and department head or within a total of twenty-five (25) calendar days from the date the grievance was filed will constitute dropping of the grievance.
 6. Within ten (10) calendar days of the date of receipt of a grievance, the City Administrator shall render his/her decision together with reasons therefore in writing to the employee. The City Administrator's decision shall be final and not subject to further appeals.
- E. Employees shall be assured of freedom from reprisal for using the grievance procedure.

SECTION 24 – INTERNET, ELECTRONIC COMMUNICATIONS AND OTHER TECHNOLOGY

1. INTRODUCTION

The purpose of this Policy for the use of the Internet, Electronic Communications and Other Technology (the “Policy”) is to give users of the City of Burlingame electronic communication systems clear guidance on what can and cannot be done with such systems. Failure to follow this policy can result in violations of the law, costly fines and penalties, expensive lawsuits and judgments, and otherwise impair the City of Burlingame’s ability to conduct its affairs; therefore, it is critical to strictly follow this Policy.

2. SCOPE OF POLICY

Electronic communications include, but are not limited to, electronic mail, instant messaging, access to and use of the Internet, City of Burlingame run networks and websites, network services, facsimile (fax), file transfers, electronic data interchange, audio and video teleconferencing, voice mail, telephone systems and wireless technologies such as personal digital assistants (PDA’s), cellular phones and pagers.

“Electronic communication system” or “System” as referred to in this policy is any system which is necessary or desirable to support the City of Burlingame electronic communications, which is owned, leased or otherwise contracted for by the City, or which is being used to access the City of Burlingame’s electronic communications or otherwise being used in furtherance of the City’s business, whether or not owned or leased by the City of Burlingame, including such equipment that is owned or leased by an individual user.

This Policy applies to all employees, representatives and agents of the City of Burlingame and any other users of the Electronic Communication System (collectively referred to as “Users”).

The City of Burlingame reserves the right, solely at its discretion, to change this Policy at any time with such notice as the City deems appropriate. Individual departments or other entities may, at their discretion, enforce stricter rules than what is stated in this policy and guidelines.

3. GENERAL

A. **Intended Use.** The Electronic Communication System is intended primarily for use in connection with the City of Burlingame’s mission and related services.

- B. **No Expectation of Privacy.** Communications created, sent, received, stored and/or accessed using the Electronic Communication System are not private. It is not the intention of the City of Burlingame to regularly monitor the content of User's electronic communications. The City of Burlingame reserves the right, however, to monitor, review, electronically scan, audit, intercept, access and disclose all electronic communications and data that are created, sent, received, stored and/or accessed using the Electronic Communication Systems, to support operational, maintenance, quality, auditing, security, and investigative activities and to ensure compliance with this Policy, the City of Burlingame Employee Manual, or otherwise to further the City of Burlingame mission. The City of Burlingame may also disclose the contents of a User's electronic communications or data to third parties without prior notice to or consent of the User. The City of Burlingame will also respond to legal process, complaints or use in violation of this Policy and fulfill its obligations to third parties. For that reason, Users do not have the same expectation of privacy in their use of the Electronic Communication System as with personally-owned, non-Electronic Communication System, communication tools. Users should not expect privacy, and Users should structure their electronic communications in recognition of the fact that the City of Burlingame may from time to time examine the content of electronic communications. Moreover, the deletion of a message or document may not fully eliminate such message or document from the City of Burlingame computer network. All Users waive any right to privacy in their use of the Electronic Communication System and consent to access and disclosure of such documents/messages by authorized City of Burlingame personnel.
- C. **Ownership.** All electronic communications and data that are created, sent, received, stored and/or accessed using the Electronic Communication Systems are City of Burlingame property. All data and information created, sent, received, stored and/or accessed by employees of the City of Burlingame during their employment by the City, and which relates in any way to their employment by the City, is the property of the City of Burlingame, whether such data is stored or accessed using the Electronic Communication Systems, maintained in hard copy, or stored electronically on systems not belonging to the City of Burlingame. Moreover, all hardware, infrastructure and software provided by the City of Burlingame are owned by the City. Users are responsible for maintaining such property in good condition and shall return such property to the City upon termination of its use or upgrade.

4. SECURITY OBLIGATIONS

- A. Goal. The goal of information system security is to protect information from unauthorized or inappropriate access or modification. The City of Burlingame will maintain a system of information security to protect its proprietary data. An integral part of this system is the policies, standards and procedures set forth below. All Users must adhere to these policies, standards and procedures for the Electronic Communication System to remain viable and should immediately report any suspected, attempted or actual security violations or breaches.
- B. Safeguards. Users must take appropriate care to safeguard the security and integrity of the Electronic Communication System and not deliberately interfere with the City of Burlingame access to data stored on the System or deliberately circumvent the City's security procedures. Users should not add additional security, such as passwords, to their workstations or files without prior consent of the Department Head or City Administrator.
- C. Unauthorized Access. Users are prohibited from using the System in any manner that creates an unreasonable risk of permitting unauthorized outside access to the Electronic Communication System. Persons who are not authorized Users may not be given access to, and are not permitted to use, the Electronic Communication System unless such access or use has been approved in advance by the employees Department Head. If approved, then those persons (including contractors and temporary employees) are subject to this Policy.
- D. User Identification and Passwords. Users shall not share centrally-administered passwords. In emergency or unusual situations, sharing of passwords for applications with a trusted coworker is permitted. Questions about sharing passwords should be directed to the Department Head. Users must inform their supervisor of any password necessary to obtain access to any security or "lock down" application (such as screen savers, BIOS passwords, etc.) when they are absent while their computer or application requires repair or maintenance.
- E. Accurate Identification. Users shall identify themselves to the system by signing on with their assigned user name. Users shall not misrepresent, obscure, suppress or replace a user's identity on an Electronic Communication System. The user name, electronic mail address, instant messenger ("IM") mail address, organizational

affiliation and related information included with electronic messages or postings must reflect the actual originator of the messages or postings.

- F. Viruses. Since viruses are often transmitted through e-mail attachments, before attaching an attachment, Users should verify through the use of City approved anti-virus software that the attachment does not contain any viruses (such anti-virus software must be installed and kept active at all times on all computers used in connection with the System). Also, when accessing an attachment, Users should always save the attached document to disk or the hard drive, rather than opening it directly. While some file attachments are just web pages or external text files, others are programs, some of which may contain viruses. Be particularly careful with any files that have “.exe”, “.vbs.”, “.scr” extensions, especially when receiving file attachments from unknown sources. Before downloading and opening any file from the Internet, the User should scan the file for viruses. The same precautions should be taken with respect to diskettes.
- G. Connection to the Internet. Users shall use the Electronic Communication System in a manner which does not compromise the security and integrity of the City of Burlingame's network, such as allowing intruders or viruses into the City of Burlingame's network. When using any computer attached to the City of Burlingame's network, users shall not access the Internet except through a City of Burlingame approved Internet firewall. Users shall not access the Internet directly, whether through a modem or otherwise, unless their accessing computer is disconnected from the City of Burlingame's network.
- H. Instant Messaging: Information sent using instant messaging (for example, AOL Instant Messenger) is analogous to sending a postcard -- the information cannot be encrypted and is easily intercepted-- and as such is not secure. If a User accesses an instant messaging service using the System, the User shall select and use a user name that corresponds to their City assigned e-mail address.
- I. Breach. Any security breach substantiated or not, must be reported to the Internet supervisors Office.

5. CONFIDENTIALITY

- A. No Dissemination. Use of the System to disseminate the City of Burlingame's confidential information outside the City is expressly prohibited. Special care should be taken when forwarding e-mail messages, especially instant messages. Confidential or proprietary City information must not be forwarded to any party outside the City

without the prior approval of the City Administrator. Blanket forwarding of messages to parties outside the City is prohibited.

- B. No Interception. Users shall not intercept or disclose, or assist in intercepting or disclosing, electronic communications unless specifically authorized by the City.
- C. Employment Agreement Obligations. This Policy does not alter or change an employee's obligations to the City of Burlingame.
- D. Confidential Information Defined. Confidential Information includes all information that is not generally available to the public, including, without limitation, financial information, personnel files, personal information provided by members of the council, or any other information that may be deemed as confidential pursuant to applicable laws regarding public records.

6. CONTENT OF MESSAGES

- A. Users. Users of the Electronic Communication System are expected to use common sense and good judgment, taking into account that the very nature of such systems allow for messages to be forwarded quickly and accidentally to the wrong person. It is particularly important that Users apply this practice in what they say in the content of their electronic messages and in their access of the internet. Assume that your message may be accessed, forwarded and read or heard by someone other than the intended recipient -- even if it is marked as "private". Also, Users should not intentionally access any site that is inappropriate for the City of Burlingame, or which could cause embarrassment to the organization or the User. While not every standard can be listed here, the following are some common examples to guide your use of the System:
 - 1. Confidential Information. Electronic communications should not contain sensitive, critical, confidential or proprietary information, unless encrypted or otherwise secured according to standards established by the City, and even then, limited only to necessary recipients - refer to Sections 4 and 5, above.
 - 2. Acts that might create a "hostile environment": Use of the System in a way that violates the City of Burlingame Employee Manual; or to disseminate or intentionally access material that is defamatory, sexually oriented, obscene, pornographic, harassing, threatening, illegal, fraudulent, offensive or unwelcome to coworkers is expressly prohibited. In the event that accessing such materials is directly relevant and required by the Users work, the User shall

get, in writing, a waiver for access, approved by his/her Department Head and City Administrator. Such waiver will have an expiration date not to exceed one year.

3. Unauthorized use or copying of software, copyrighted materials or of information belonging to others. Use of the System for unauthorized copying of copyrighted software or content is expressly prohibited. Similarly, proprietary information belonging to others must not be placed on the System without the prior written approval of the City Administrator.

If a User receives notice, in writing or otherwise, or becomes aware that the Electronic Communication System is being or is proposed to be used to create, disseminate, store, upload or download any messages, communications or other material in violation of the copyrights, trademarks, patents, intellectual property or other property rights of any party, such User shall inform the City Administrator in writing of such use or proposed use. The City of Burlingame reserves the right to remove or disable access to any material that is claimed to be infringing or to be the subject matter of infringing activity.

4. Illegal export. The U.S. and some other countries prohibit the transfer of certain technical data without an export license. No such transfers should be done through the Electronic Communication System without proper approval.
5. Privacy. The City of Burlingame has a Privacy Policy, and certain national and local governments may have privacy laws, which may restrict the use or transmission of personally identifiable data. Check with the Legal Office for these restrictions and laws.
6. Unauthorized announcements and solicitations. The System may not be used for political or social announcements not directly connected with the City of Burlingame unless such announcements are placed in areas specifically designated for that purpose or prior approval by the Department Head has been obtained.
7. Bulk E-Mail. The System may not be used to send unsolicited advertising, junk, or chain e-mail messages (also known as "spam"). When sending out bulk e-mail (where one message is sent to numerous recipients):

- ensure that all recipients have requested to receive such communications from the City of Burlingame (for example, by filling out a registration form);
- follow e-mail service provider's policies or terms and conditions;
- label advertisements with "ADV" in the subject line;
- ensure that all information in the text and header are accurate, including the e-mail's point of origin;
- ensure that the e-mail is sent with proper routing and transmission;
- use the "bcc" field rather than the "to" or "cc" fields to list recipients' e-mail addresses;
- include in the body of the message the sender's name, address and e-mail address and clear and conspicuous instructions for how to request to be removed from the mailing list and remove all recipients who have opted out from all mailing lists used by the City of Burlingame; and
- send a copy of all such e-mail messages to the City Administrator.
- Unsolicited electronic mail or communications received from unknown sources should be promptly discarded without forwarding to anyone and/or without responding in any manner to the originator.

8. Attachments. All file attachments to e-mail messages should be less than 1 megabyte in size, but may be larger in special circumstances.

7. ADDITIONAL USER OBLIGATIONS

- A. Back-ups. In order to conserve limited resources, files that are not City of Burlingame related should not be stored on the City's network servers. The City has no responsibility to provide copies of personal data to employees leaving the City.
- B. Access of City of Burlingame Facilities by Non-City of Burlingame Provided Equipment. Access to the City's internal computer networks using non-City provided computers or PDAs, including access from remote locations such as employee homes, hotel rooms and affiliates, must in all instances be approved in advance by each individual Department Head. Such remote access may be revoked at any time for any reason, including failure to comply with the City of Burlingame's security policies.
- C. Publication. Users placing information on the Internet relating to the City of Burlingame or in the course of performing his/her employment

duties are, in effect, publishing such information on the City's behalf. Only authorized personnel shall engage in such publishing activities, other than the sending or receiving of e-mail. Authorized personnel shall observe all existing standards, policies and regulations regarding materials published on the City of Burlingame's behalf, and shall establish accountability for all information regarding the City's mission or publications posted on the Internet for public access, including postings on electronic bulletin boards, chat rooms and information obtained "hyperlinks" to externally stored information. In no event shall a User represent his or her personal opinions as those of the City of Burlingame or misrepresent oneself as another individual, or company. No materials are to be placed on the City of Burlingame's website without the approval of the City Administrator. No new websites shall be developed without the prior written approval of the City Administrator.

- D. Limited Personal Use. The City of Burlingame permits the occasional personal use of the Electronic Communication System by Users, however, Users should understand that personal use (a) must not in any way interfere with or impede the City's mission, (b) must be occasional and minor, (c) must be promptly discontinued at the request of the City, and (d) is expressly subject to all of the provisions in this Policy, as well as all other applicable City of Burlingame policies and guidelines.
- E. "Recreational" Use. Use of the systems for "recreational" uses (non-business Internet access, games, music, talk radio stations, etc.) is prohibited when engaging in such activity interferes with an employee's job duties, violates the City of Burlingame Employee Manual, or interferes with the efficient functioning of the System.
- F. Software. All software used in connection with the System must be authorized by, or acquired through, the Department Head. The City of Burlingame complies with all software copyrights and the terms of all software licenses. Users may not duplicate licensed software or related documentation or download such material unless the license agreement expressly allows for such use and the Information Services Office approves. The City of Burlingame reserves the right to remove any unauthorized software from any City owned equipment or any personally-owned equipment on the City's premises. The City of Burlingame reserves the right to conduct audits of the System to ensure that the City of Burlingame and its Users are in compliance with all applicable software licenses and internal policies. Users are expressly prohibited from downloading or transmitting unauthorized or unlicensed software from the Internet or other sources onto the

System. The downloading of “freeware” or “shareware” from the Internet is also prohibited unless approved by the Department Head.

- G. Use of Credit Cards. City of Burlingame issued credit cards shall not be used for any purpose to conduct transactions on the internet without the prior written approval of the Department Head or City Administrator. Any such use must be kept on file with the Department Head or City Administrator and copied to the Finance Director.

8. VIOLATIONS

- A. Violations of this Policy may lead to discipline up to and including the termination of the employment with the City of Burlingame.